

BARSHAY SANDERS, PLLC
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Attorneys for Plaintiffs
Our File No.: 111733

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Sally Gil and Suzette Rene, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

Allied Interstate LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Sally Gil and Suzette Rene, individually and on behalf of all others similarly situated(hereinafter referred to collectively as “*Plaintiffs*”), by and through the undersigned counsel, complain, state and allege against Allied Interstate LLC(hereinafter referred to as “*Defendant*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. §1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

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GARDEN CITY, NEW YORK 11530

4. At all relevant times, Defendant conducted business within the State of New York.

PARTIES

5. Plaintiff Sally Gil is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

6. Plaintiff Suzette Rene is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

7. Plaintiffs are “consumers” as defined by 15 U.S.C. § 1692a(3).

8. On information and belief, Defendant Allied Interstate LLC, is a Ohio Limited Liability Company with a principal place of business in Franklin County, Ohio.

9. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

10. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

11. Defendant alleges each of the Plaintiffs owe a debt (“the Debts”).

12. The Debts were primarily for personal, family or household purposes and are therefore “debts” as defined by 15 U.S.C. § 1692a(5).

13. Sometime after the incurrence of the Debts, Plaintiffs fell behind on payments owed.

14. Thereafter, at an exact time known only to Defendant, the Debts were assigned or otherwise transferred to Defendant for collection.

15. In its efforts to collect the debt alleged owed by Plaintiff Sally, Defendant contacted Plaintiff Gil by letter (“the Letter”) dated June 1, 2017. (“**Exhibit 1.**”)

16. In its efforts to collect the debt alleged owed by Plaintiff Rene, Defendant contacted Plaintiff Rene by letter (“the Letter”) dated June 1, 2017. (“**Exhibit 1.**”)

17. The Letter was the initial communication Plaintiff Gil received from Defendant.

18. The Letter was the initial communication Plaintiff Rene received from Defendant.

19. The letters are identical in all material respects.

20. The Letters are “communications” as defined by 15 U.S.C. § 1692a(2).

21. 15 U.S.C. § 1692g provides that within five days after the initial communication

with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

22. 15 U.S.C. § 1692g(3) requires the notice to include a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

23. There is no requirement that the consumer dispute the debt in writing.

24. It is a violation of FDCPA to require disputes be made in writing.

25. It is a violation of the FDCPA to include language in the letter that overshadows the required 15 U.S.C. § 1692g(3) statement.

26. It is a violation of the FDCPA to include language in the letter that contradicts the required 15 U.S.C. § 1692g(3) statement.

27. It is a violation of the FDCPA to include language in the letter that, when examined from the perspective of the least sophisticated consumer, overshadows the required § 1692g(a)(3) statement.

28. It is a violation of the FDCPA to include language in the letter that, when examined from the perspective of the least sophisticated consumer, contradicts the required § 1692g(a)(3) statement.

29. It is a violation of the FDCPA to include language in the letter that, when examined from the perspective of the least sophisticated consumer, leads the least sophisticated consumer to believe that her dispute must be in writing.

30. The letters dictate that Plaintiff should correspond with Defendant, other than payments, at: Allied Interstate LLC, PO Box 361445, Columbus, Ohio, 43236.

31. Disputes need not be in writing. *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282 (2d Cir. 2013)

32. Disputes may be made orally.

33. The language concerning written disputes overshadows the required 15 U.S.C. § 1692g(3) statement.

34. The language concerning written disputes contradicts the required 15 U.S.C. § 1692g(3) statement.

35. The language concerning written disputes, when examined from the perspective

of the least sophisticated consumer, overshadows the required § 1692g(a)(3) statement.

36. The language concerning written disputes, when examined from the perspective of the least sophisticated consumer, contradicts the required § 1692g(a)(3) statement.

37. The language concerning written disputes, when examined from the perspective of the least sophisticated consumer, leads the least sophisticated consumer to believe that her dispute must be in writing.

38. Defendant violated § 1692g as the above-referenced language overshadows the information required to be provided by that Section. *See Vetrano v. CBE Grp., Inc.*, 2016 WL 4083384 (E.D.N.Y. Aug. 1, 2016).

39. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

40. While § 1692e specifically prohibits certain practices, the list is non-exhaustive, and does not preclude a claim of falsity or deception based on any non-enumerated practice.

41. Collection notices are deceptive if they can be reasonably read to have two or more different meanings, one of which is inaccurate.

42. The question of whether a collection letter is deceptive is determined from the perspective of the “least sophisticated consumer.”

43. The letters could be reasonably interpreted by the least sophisticated consumer as incorrectly representing that a dispute must be communicated in writing. *See Vetrano v. CBE Grp., Inc.*, 2016 WL 4083384 (E.D.N.Y. Aug. 1, 2016).

44. Because the letters letter is reasonably susceptible to an inaccurate reading, as described above, it is deceptive within the meaning of the FDCPA.

45. The least sophisticated consumer would likely be deceived by the letter.

46. The least sophisticated consumer would likely be deceived in a material way by the letter.

47. The misrepresentation is material because it could impede the least sophisticated consumer’s ability to respond to the letter or dispute the debt.

48. Defendant violated § 1692e by using a false, deceptive and misleading representation in its attempt to collect a debt.

CLASS ALLEGATIONS

49. Plaintiffs bring this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt using the same form letter herein which includes language suggesting disputes need to be made in writing, from one year before the date of this Complaint to the present.

50. This action seeks a finding that Defendant's conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

51. Defendant regularly engages in debt collection.

52. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using the same form letter herein which includes language suggesting disputes need to be made in writing.

53. Plaintiffs' claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

54. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

55. Plaintiffs will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiffs have retained counsel experienced in actions brought under consumer protection laws.

JURY DEMAND

56. Plaintiffs hereby demand a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiffs as Class Representatives of the Class, and Plaintiffs' attorneys as Class Counsel; and
- c. Find that Defendant's actions violate the FDCPA; and
- d. Grant damages against Defendant pursuant to 15 U.S.C. § 1692k; and
- e. Grant Plaintiffs' attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- f. Grant Plaintiffs' costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: June 5, 2017

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders
Craig B. Sanders, Esq.
100 Garden City Plaza, Suite 500
Garden City, New York 11530
Tel: (516) 203-7600
Fax: (516) 706-5055
csanders@barshaysanders.com
Attorneys for Plaintiffs
Our File No.: 111733

BARSHAY | SANDERS^{PLLC}
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530



866-875-5860

June 1, 2016
Sally Gil
198 Greeley Ave Apt 2M
Sayville, NY 11782-2327



Re: TJX Rewards® Platinum MasterCard® Account
Creditor: Synchrony Bank Account No. *****1729
Amount Owed: \$2,727.00
Reference No.: ██████████5655

Sally Gil:

We are a debt collection company and Synchrony Bank has contracted with us to collect the debt noted above. This is an attempt to collect a debt and any information obtained will be used for that purpose.

As of the date of this letter, the Amount Owed is \$2,727.00. Because the creditor continues to assess interest on the debt, the amount due on the day you pay may be greater. Hence, if you pay the Amount Owed shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you of any remaining balance. To make a payment, please telephone us at 866-875-5860 or mail your payment using the coupon on the reverse side of this letter. You may also pay your balance online. Please visit www.tjxrewards.com, a safe and secure website. By sending us a check or giving us your checking account information for payment, you authorize us to collect funds electronically, in which case your check may not be returned to you. We may also arrange for a direct debit from your checking account.

Unless you notify us within 30 days after receiving this letter that you dispute the validity of this debt or any portion thereof, we will assume that this debt is valid. If you notify us in writing within 30 days after receiving this letter that you dispute the validity of this debt, or any portion thereof, we will obtain and mail to you verification of the debt or a copy of a judgment. If you request of us in writing within 30 days after receiving this letter, we will provide you with the name and address of the original creditor, if different from the current creditor.

We look forward to receiving your payment.
Sincerely,
Allied Interstate LLC
Jeffrey Swedberg

Debt collectors, in accordance with the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to:

- (i) the use or threat of violence;
- (ii) the use of obscene or profane language; and,
- (iii) repeated phone calls made with the intent to annoy, abuse, or harass.

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

- | | |
|---|--|
| 1. Supplemental security income, (SSI); | 7. Workers' compensation benefits; |
| 2. Social security; | 8. Public or private pensions; |
| 3. Public assistance (welfare); | 9. Veterans' benefits; |
| 4. Spousal support, maintenance (alimony) or child support; | 10. Federal student loans, federal student grants, and federal work study funds; and |
| 5. Unemployment benefits; | 11. Ninety percent of your wages or salary earned in the last sixty days. |
| 6. Disability benefits; | |

7525 West Campus Road, New Albany, OH
(Do not send payments or correspondence to this address)

If you have a question or comment, please (i) write us at P.O. Box 361445, Columbus, OH 43236; (ii) email us at: advocacygroup@allied-interstate.com, or, (iii) call us toll-free at (800)-811-4214 between 9:00 AM Eastern Time and 6:00 PM Eastern Time Monday through Friday.

New York City Department of Consumer Affairs license numbers: 1474413-DCA, 1473185-DCA, 1473141-DCA, 1473196-DCA, 1473186-DCA, 1466817-DCA, 1473155-DCA, 1473165-DCA, 1473170-DCA, 1473181-DCA, 1473180-DCA, 1473198-DCA, 1473177-DCA, 1473174-DCA.

Correspond with Allied (other than payments) at: Allied Interstate LLC, PO Box 361445, Columbus, OH 43236

RETURN MAIL ONLY

(Detach and return with payment)

P.O.Box 1954

Southgate, MI 48195-0954

██████████ 6553



0018536/0000001



Sally Gil
198 Greeley Ave Apt 2M
Sayville, NY 11782-2327

Synchrony Bank
TJX Rewards Platinum MasterCard
P.O. Box 530949
Atlanta, GA 30353-0949



866-875-5860

June 1, 2016

Suzette Rene
102 Cutchogue Ct
Melville, NY 11747-5304

Re: TJX Rewards® Platinum MasterCard® Account
Creditor: Synchrony Bank Account No. *****2805
Amount Owed: \$2,191.00
Reference No.: ██████████2253

Suzette Rene:

We are a debt collection company and Synchrony Bank has contracted with us to collect the debt noted above. This is an attempt to collect a debt and any information obtained will be used for that purpose.

As of the date of this letter, the Amount Owed is \$2,191.00. Because the creditor continues to assess interest on the debt, the amount due on the day you pay may be greater. Hence, if you pay the Amount Owed shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you of any remaining balance. To make a payment, please telephone us at 866-875-5860 or mail your payment using the coupon on the reverse side of this letter. You may also pay your balance online. Please visit www.tjxrewards.com, a safe and secure website. By sending us a check or giving us your checking account information for payment, you authorize us to collect funds electronically, in which case your check may not be returned to you. We may also arrange for a direct debit from your checking account.

Unless you notify us within 30 days after receiving this letter that you dispute the validity of this debt or any portion thereof, we will assume that this debt is valid. If you notify us in writing within 30 days after receiving this letter that you dispute the validity of this debt, or any portion thereof, we will obtain and mail to you verification of the debt or a copy of a judgment. If you request of us in writing within 30 days after receiving this letter, we will provide you with the name and address of the original creditor, if different from the current creditor.

We look forward to receiving your payment.

Sincerely,
Allied Interstate LLC
Jeffrey Swedberg

Debt collectors, in accordance with the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to:

- (i) the use or threat of violence;
- (ii) the use of obscene or profane language; and,
- (iii) repeated phone calls made with the intent to annoy, abuse, or harass.

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

1. Supplemental security income, (SSI);
2. Social security;
3. Public assistance (welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Workers' compensation benefits;
8. Public or private pensions;
9. Veterans' benefits;
10. Federal student loans, federal student grants, and federal work study funds; and
11. Ninety percent of your wages or salary earned in the last sixty days.

7525 West Campus Road, New Albany, OH
(Do not send payments or correspondence to this address)

If you have a question or comment, please (i) write us at P.O. Box 361445, Columbus, OH 43236; (ii) email us at: advocacygroup@allied-interstate.com, or, (iii) call us toll-free at (800)-811-4214 between 9:00 AM Eastern Time and 6:00 PM Eastern Time Monday through Friday.

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Correspond with Allied (other than payments) at: Allied Interstate LLC, PO Box 361445, Columbus, OH 43236

RETURN MAIL ONLY

(Detach and return with payment)

P.O.Box 1954
Southgate, MI 48195-0954

██████████ 2533



0013475/0000001



Suzette Rene
102 Cutchogue Ct
Melville, NY 11747-5304

Synchrony Bank
TJX Rewards Platinum MasterCard
P.O. Box 530949
Atlanta, GA 30353-0949



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

Sally Gil and Suzette Rene, individually and on)	
behalf of all others similarly situated)	
_____)	
<i>Plaintiff(s)</i>)	
)	Civil Action No.
v.)	
)	
Allied Interstate LLC)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Allied Interstate LLC
7525 West Campus Road
New Albany, Ohio 43054

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States, or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

BARSHAY SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NY 11530

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS: SALLY GIL
DEFENDANTS: ALLIED INTERSTATE LLC
(b) County of Residence of First Listed Plaintiff: SUFFOLK
County of Residence of First Listed Defendant: FRANKLIN
(c) Attorneys: BARSHAY SANDERS, PLLC

II. BASIS OF JURISDICTION: 01 U.S. Government Plaintiff, 03 Federal Question
III. CITIZENSHIP OF PRINCIPAL PARTIES: Citizen of This State, PTF 01, DEF 01

IV. NATURE OF SUIT: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES

V. ORIGIN: 01 Original Proceeding, 02 Removed from State Court, 03 Remanded from Appellate Court

VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing: 15 USC §1692
Brief description of cause: 15 USC §1692 Fair Debt Collection Practices Act Violation

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY: (See Instructions) JUDGE DOCKET NUMBER

DATE: June 5, 2017 SIGNATURE OF ATTORNEY OF RECORD: /s Craig B. Sanders

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Craig B. Sanders, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1. Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: NO
2. If you answered "no" above:
a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? YES
b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.
Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?
Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s Craig B. Sanders

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Consumers Sue Allied Interstate Over Allegedly False Implications](#)
